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**From:** Smith, William (Region 3) [smith.william@epa.gov]  
**Sent:** 3/28/2018 6:26:19 PM  
**To:** Bennett, James [bennett.james@epa.gov]  
**Subject:** RE: RCRA claim against Mountaire in Delaware

....I'm batting 1.000 today.

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**From:** Bennett, James  
**Sent:** Wednesday, March 28, 2018 2:11 PM  
**To:** Smith, William (Region 3) <smith.william@epa.gov>  
**Cc:** Sternberg, David <Sternberg.David@epa.gov>; damm, thomas <Damm.Thomas@epa.gov>; frankel, michael <frankel.michael@epa.gov>; rogers, rick <rogers.rick@epa.gov>; Wzorek, Katherine <wzorek.katherine@epa.gov>; schaffer, joan <schafer.joan@epa.gov>; Hamilton, Brian <Hamilton.Brian@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>  
**Subject:** Re: RCRA claim against Mountaire in Delaware

And SDWA case not CWA

On Mar 28, 2018, at 2:09 PM, Smith, William (Region 3) <[smith.william@epa.gov](mailto:smith.william@epa.gov)> wrote:

Andy advises that the consent order was 2003, not 2005.

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**From:** Smith, William (Region 3)  
**Sent:** Wednesday, March 28, 2018 1:56 PM  
**To:** Sternberg, David <[Sternberg.David@epa.gov](mailto:Sternberg.David@epa.gov)>; damm, thomas <[Damm.Thomas@epa.gov](mailto:Damm.Thomas@epa.gov)>; frankel, michael <[frankel.michael@epa.gov](mailto:frankel.michael@epa.gov)>; Bennett, James <[bennett.james@epa.gov](mailto:bennett.james@epa.gov)>; rogers, rick <[rogers.rick@epa.gov](mailto:rogers.rick@epa.gov)>  
**Cc:** Wzorek, Katherine <[wzorek.katherine@epa.gov](mailto:wzorek.katherine@epa.gov)>; schaffer, joan <[schafer.joan@epa.gov](mailto:schafer.joan@epa.gov)>; Hamilton, Brian <[Hamilton.Brian@epa.gov](mailto:Hamilton.Brian@epa.gov)>; Duchovnay, Andrew <[Duchovnay.Andrew@epa.gov](mailto:Duchovnay.Andrew@epa.gov)>  
**Subject:** RE: RCRA claim against Mountaire in Delaware

You're correct that we generally don't comment on citizens suits against other parties, and ORC is not recommending that we do so here.

By way of background, I spoke with Andy Duchovnay (copied here), who deals with CWA CAFO issues in DE and is aware of the Mountaire situation. Andy advises that EPA took an administrative action against Mountaire in 2005, which was resolved by a consent order. DNREC is taking the lead in dealing with this facility.

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U.S. Environmental Protection Agency, Region III  
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**From:** Sternberg, David  
**Sent:** Wednesday, March 28, 2018 1:35 PM  
**To:** Smith, William (Region 3) <[smith.william@epa.gov](mailto:smith.william@epa.gov)>; damm, thomas <[Damm.Thomas@epa.gov](mailto:Damm.Thomas@epa.gov)>; frankel, michael <[frankel.michael@epa.gov](mailto:frankel.michael@epa.gov)>; Bennett, James <[bennett.james@epa.gov](mailto:bennett.james@epa.gov)>; rogers, rick <[rogers.rick@epa.gov](mailto:rogers.rick@epa.gov)>  
**Cc:** Wzorek, Katherine <[wzorek.katherine@epa.gov](mailto:wzorek.katherine@epa.gov)>; schaffer, joan <[schaffer.joan@epa.gov](mailto:schaffer.joan@epa.gov)>; Hamilton, Brian <[Hamilton.Brian@epa.gov](mailto:Hamilton.Brian@epa.gov)>  
**Subject:** FW: RCRA claim against Mountaire in Delaware

While I don't think we would want to comment on this proposed litigation to which we are not a party, would we want to say something about our enforcement history with regard to Montaire?

Let me know your thoughts. Thanks,

David

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**From:** Lauria, Madeline [<mailto:MLauria@delawareonline.com>]  
**Sent:** Wednesday, March 28, 2018 12:20 PM  
**To:** Sternberg, David <[Sternberg.David@epa.gov](mailto:Sternberg.David@epa.gov)>  
**Subject:** RCRA claim against Mountaire in Delaware

Hi David,

Reaching out if the EPA would like to respond to the notice of intent to sue Mountaire under the federal Resource Conservation and Recovery Act, which also claims government agencies failed to enforce laws/regulations now that the information about the notice letter is no longer embargoed.

<https://www.delawareonline.com/story/news/local/2018/03/28/lawyers-threaten-federal-lawsuit-hold-delaware-chicken-plant-accountable-pollution/447524002/>

Thanks,

**Maddy Lauria**

Sussex County/Environmental Reporter

<image001.png>

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